

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Power Company :
-vs- :
Egyptian Electric Cooperative Association : ESA 176
 :
Complaint under the Electric Supplier Act :
regarding service in St. Clair County, Il- :
linois. :

O R D E R

By the Commission:

On November 20, 1975, Illinois Power Company ("Illinois Power"), an Illinois corporation, filed a complaint under the Electric Supplier Act ("Act") alleging its right to furnish electric service to the Kaskaskia Regional Port District in St. Clair County, Illinois and naming Egyptian Electric Cooperative Association ("Egyptian"), a not-for-profit corporation, as Respondent. On December 23, 1975, Egyptian filed its answer to said complaint.

Pursuant to notice as required by the rules and regulations of this Commission, this cause came on for hearing before a duly authorized Examiner of the Commission at its offices in Springfield, Illinois, on March 11, 1976, with continuances to April 22 and June 23, 1976 at which time the cause was marked "Heard and Taken." Illinois Power and Egyptian each were represented by counsel who presented evidence, both oral and documentary, in support of their respective positions. A member of the Engineering Section of the Commission was also present and participated in said hearings.

Illinois Power and Egyptian filed their briefs on July 20, 1976 and reply briefs of both parties were filed August 13, 1976. Both parties in this cause agree this complaint comes under the provisions of Section 8 of the Electric Supplier Act.

Section 8 of the Electric Supplier Act states:

"In making the determination, the Commission shall act in the public interest and shall give substantial weight to the considerations as to which supplier had existing lines in proximity to the premises proposed to be served, provided such lines are adequate. In addition, the Commission may consider, but with lesser weight, (a) the customer's preference as to which supplier shall furnish the proposed service, (b) which supplier was first furnishing service in the area, (c) the extent to which each supplier assisted in creating the demand for the proposed service, and (d) which supplier can furnish the proposed service with the smaller amount of additional investment."

Illinois Power Company proposes to serve the customer in question by the construction of approximately 2.5 miles of 34.5 KV distribution line. The record also indicates that Egyptian has an existing line, as of July 2, 1965, within one mile of the service location of the customer in question. This line could be extended and made adequate, as that term is defined in the Electric Supplier Act, to serve the customer in question. Thus, Egyptian has a line in proximity to the premises proposed to be served.

The major point of contention in this case revolves around Egyptian's chosen method of serving the customer in question and the cost associated therewith. In lieu of upgrading existing, (as of July 2, 1965), 12.5 KV distribution facilities and making a short extension thereto, Egyptian proposed and is now serving the coal handling facility via new construction of a substation, three miles of 12.5 KV distribution lines and Southern Illinois Power

Cooperative's (SIPC) construction of 7.5 miles of 69 KV transmission line. Witnesses for Egyptian stated that the transmission line, substation and part of the distribution facilities would be constructed regardless of whether this Commission allowed them to serve the coal handling facility. Egyptian contends that the northern part of its service territory needed support in the immediate future to serve projected loads without consideration of the disputed load.

Illinois Power contends that the construction of facilities by Egyptian and its electric supplier is uneconomical and a duplication of facilities. The Commission notes, based on the record in this case, that although the new 69 KV transmission line constructed by Southern Illinois Power Cooperative parallels an existing Illinois Power 138 KV line and crosses Illinois Power's 345 KV facilities, these various lines all have different, non-duplicative purposes. Illinois Power submitted into evidence two studies of Egyptian's northern service area, one with the load in question and the other without. These studies show that, in Illinois Power's opinion, construction of the substation, 69 KV transmission line and 12.5 KV distribution facilities represent a less desirable plan from an economical standpoint, than upgrading and extending current facilities to serve the area in question based on the above stated two scenarios. The Commission notes that Illinois Power's studies indicate that the facilities in the northern part of Egyptian's service territory need to be upgraded to serve forecasted loads, without the coal handling facility in question, thus, adding weight to Egyptian's contention that the transmission line and substation is needed and would be built regardless of whether it is allowed to serve the customer in question. Because of the manner in which Egyptian has chosen to serve the coal handling facility, the question as to which supplier can furnish the proposed service with the smaller amount of additional investment arises. Illinois Power proposes, as stated above, to serve the proposed load by the extension of three miles of 34.5 KV line at an estimated cost of \$128,000. The following methods of determining Egyptian's costs immediately surface:

1. The cost of the three miles of 12.5 KV line as suggested by Egyptian (approximately \$25,000);
2. the total cost of new facilities constructed in this area by Egyptian and its electric supplier, Southern Illinois Power Cooperative (approximately \$287,000 which includes the new substation, 7.5 miles of 69 KV line and three miles of 12.5 KV line), as suggested by Illinois Power;
3. an allocation of the total cost of new facilities set forth in (2) immediately above; or
4. the cost associated with the upgrading and extending the existing facilities in existence on July 2, 1965 (approximately \$110,000).

The Commission believes that there may be some merit in measuring cost against what it would be to make the existing lines adequate since Egyptian should not be compelled to use a short sighted plan, in its judgment, in order to win the right to serve a customer and thus close its eyes to what is considered to be reasonable long range planning. Although Illinois Power's engineers disagree with the method of serving the area in question, this Commission's review of Egyptian's plan to serve said area indicates that it is not unreasonable.

However, it would appear public interest would dictate that the Commission consider the actual monies expended in the serving of a customer, not what may have been expended under alternative plans. Thus, the Commission believes the proper method lies with

some allocation of those costs incurred by Egyptian and its electric supplier. The Commission has rejected alternative (1) stated above because it does not believe it to be within the intent of the Act to ignore the cost associated with Egyptian's wholesale energy supplier when clearly such costs, at least to some degree, are being incurred to serve the disputed load. With respect to allocation, one method lies with allocating the cost of all facilities constructed as set forth in alternative (2) above in proportion to the docks demand divided by the facility's total capability to serve - approximately 14.3% in this case. Under this method, the cost to serve by Egyptian is approximately \$63,000, which is \$25,000 for distribution and 14.3% of other facilities' costs. Thus, the use of this method favors Egyptian over Illinois Power. Should the cost be determined in accordance with the plan calling for an upgrading of the existing facilities as of July 2, 1965 and making a short extension thereto, Egyptian again would be favored. Only in the instance where total costs incurred by both Egyptian and Southern Illinois Power Cooperative are considered, does the cost issue fall in favor of Illinois Power. In light of the evidence in this case where it is shown by both parties that the northern area of Egyptian's territory is growing exclusive of the load of the coal handling facility, the Commission believes that the position advocated by Illinois Power for the measuring of Egyptian's cost should be rejected. In any event, the Commission notes that the issue of which supplier can furnish the proposed service with the smaller amount of additional investment may, according to the Electric Supplier Act, be considered by the Commission but with lesser weight than that attached to the issue of proximity to the premises proposed to be served.

In considering the remaining points set forth in Section 8 of the Electric Supplier Act, the record shows that (1) neither electric supplier assisted in creating the demand for the proposed service, (2) Egyptian was the supplier first furnishing service in the area, and (3) the customer in question has indicated a preference or at least the acceptability of service from Egyptian.

The Commission, having considered all of the evidence, both oral and documentary, presented in this proceeding and being fully advised in the premises, is of the opinion and finds that:

- (1) Egyptian Electric Cooperative Association is an Illinois not-for-profit corporation engaged in furnishing and distributing electric energy and is an electric supplier within the meaning of the Electric Supplier's Act, as amended;
- (2) Illinois Power Company is a corporation organized and existing under and by virtue of the laws of the State of Illinois; it owns and operates, with charter powers to do so, electric transmission lines and distribution systems in the State of Illinois; it is a public utility within the meaning of "An Act concerning public utilities," approved June 22, 1921, as amended, and is an electric supplier within the meaning of the "Electric Supplier Act", as amended;
- (3) the Commission has jurisdiction of the parties and of the subject matter herein;
- (4) a copy of the complaint filed in this case was served by the Secretary of the Commission upon the Respondent, Egyptian Electric Cooperative, and notice of all hearings scheduled in this cause were mailed by the Secretary of the Commission to the parties in accordance with the Rules of Practice of the Commission in such cases;

- (5) the statement of facts contained in the prefatory portion of this order are supported by evidence and are hereby adopted as findings of fact;
- (6) Egyptian Electric Cooperative has proximity to the premises for delivery of electric power to the proposed customer by virtue of its existing, as of July 2, 1965, 12.5 KV line as shown on Respondent's Exhibit 1 entered into evidence in this cause;
- (7) the customer has indicated a preference or at least the acceptability of Egyptian Electric Cooperative's service; Egyptian Electric Cooperative was first furnishing service in the immediate area; neither supplier assisted in creating the demand for the proposed service; Egyptian Electric Cooperative Association can provide the service with the smaller amount of additional investment; and
- (8) public interest requires that Egyptian Electric Cooperative Association furnish electric service to the Kaskaskia Regional Port District's coal handling facility.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Egyptian Electric Cooperative Association be, and it is hereby entitled to render electric service to the service point of the Kaskaskia Regional Port District in St. Clair County, Illinois.

IT IS FURTHER ORDERED by the Illinois Commerce Commission that all objections and motions made in this proceeding that remain undisposed of are hereby considered disposed of and in a manner consistent with the ultimate conclusions herein contained.

By order of the Commission this 7th day of September, 1977.

EXAMINER	<i>CUF</i>
SECTION CHIEF	<i>CUF</i>
Supervisor	<i>HC</i>

William J. Gellman
Chairman

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Central Illinois Public	:	
Service Company	:	
	:	
-vs-	:	
	:	ESA 232
Coles Moultrie Electric	:	
Cooperative	:	
	:	
Complaint regarding service	:	
in Coles County, Illinois.	:	

ORDER

By the Commission:

On October 5, 1984, Central Illinois Public Service Company ("CIPS") filed a verified Complaint under the Electric Supplier Act ("ESA") regarding electric service to an area in Coles County located in an unincorporated area southeast of the City of Mattoon in Township 12 North, Range 8 East of the Third Principal Meridian.

Pursuant to notice as required by law and the rules and regulations of the Illinois Commerce Commission ("Commission"), hearings were held in this matter on November 13, 1984 and February 13, 1985 before a duly authorized Hearing Examiner of the Commission at its offices in Springfield, Illinois. Appearances were entered on behalf of Complainant and Respondent and by a member of the Engineering Department of the Public Utilities Division of the Commission. Evidence was presented by Complainant and Respondent and at the conclusion of the hearing on February 13, 1985, the record was marked "Heard and Taken."

On April 29, 1985, Complainant filed a brief in this matter. On June 20, 1985, Respondent filed a Motion to Strike Brief or any alternative portions of the brief. Also on June 20, 1985, Respondent filed its brief. On June 25, 1985, Complainant filed a response to the Motion to Strike Brief. On July 2, 1985, Respondent replied to Complainant's response to Motion to Strike Brief. On July 11, 1985, Complainant filed a reply brief. In its Complaint, CIPS requested that the Commission enter an order requiring Coles Moultrie to disconnect all customers being served at the location and remove its facilities from the location described and engage in no further connection of customers.

Pursuant to 83 Ill. Adm. Code 200.820 a copy of the proposed order was served on all parties. No exceptions were submitted to the proposed order.

Background of Dispute

The Complaint concerns service to two locations on an 8.2 acre tract southwest of Mattoon, Illinois, known in this matter as the Alderson Tract in Coles County. The service locations consist of the residence of Robert Alderson which was connected by Coles Moultrie in May 1983 and a house and kennels connected in July 1984. The Complaint seeks a determination as to which utility is entitled under the ESA to supply electric service to this tract of land.

Evidence Presented by CIPS and Coles Moultrie

The evidence presented by CIPS and Coles Moultrie in this proceeding establishes the following facts: On March 24, 1948, CIPS connected the residence of J.A. Strong for electric service. The residence of J.A. Strong was located on a 92.5 acre tract in Section 21, Township 12 North, Range 8 East, and owned by Strong by deed dated June 9, 1947. This tract of land was held by J.A. Strong on July 2, 1965. Additional evidence shows conveyances from Leslie R. Strong to Roger and Mary Alice Ames and a section to Michael E. England, and a conveyance from Michael E. England to Robert Wayne Alderson, Macle Leon Alderson and Mary Lee Alderson.

The evidence indicated that what was known as the Alderson tract for the purposes of this Complaint is a part and parcel of the East One-Half of the Southeast Quarter of Section 21, Township 12 North, Range 8 East of the Third Principal Meridian being a portion of the tract owned by J.A. and Nelta F. Strong on July 2, 1965 since the date of conveyance to them in 1947.

CIPS served the residents of J.A. Strong commencing on March 24, 1948 from its Mattoon-Lerna line. CIPS introduced additional evidence to indicate that this service has been continuous from the above date to July 2, 1965.

In May 1983 Coles Moultrie constructed a new service line to the Robert Alderson residence. Service was first turned on for Robert Alderson on May 18, 1983. Prior to constructing the service line to the Alderson residence, Coles Moultrie testified that they inspected a map of CIPS showing its system as of

July 2, 1965. It was Coles Moultrie's opinion that based upon this map there were no prior customers in the tract of land in question.

Position of CIPS

CIPS' position is that it has the right under Section 5 of the ESA to serve the Alderson tract. This is based on the fact that the Alderson tract is a part of an original tract serviced by CIPS on July 2, 1965. CIPS presents the issues as whether the present Alderson tract is part of the original J.A. Strong location on July 2, 1965 and whether on that date J.A. Strong was a customer of CIPS and receiving electric service at the Strong location. CIPS' position is based on the Illinois Appellate Court decision, Western Illinois Coop v. Illinois Commerce Commission, 67. Ill. App. 3rd 603 (4th Dist., 1979). CIPS is of the opinion that it was serving J.A. Strong on July 2, 1965 and that the Alderson tract was a part of the entire tract and therefore the ESA grants to an electric supplier the right to serve the entire location regardless of subsequent divisions of the parcels or proximity of other suppliers.

Position of Coles Moultrie

Coles Moultrie's position in this Complaint is whether or not CIPS has proved its right to serve the Alderson tract under Section 5 of the ESA, whether or not Coles Moultrie is entitled to serve the Alderson tract under Section 8 of the ESA and whether CIPS is estopped from claiming a right to serve the Alderson tract. Coles Moultrie argues that CIPS has not proven that it was serving the premises of J.A. Strong on July 2, 1965. Coles Moultrie argues that CIPS did not present a continuous history of the J.A. Strong residence that demonstrates electrical consumption on July 2, 1965. Records of CIPS were not available to show electrical service through the years 1960 to 1970.

Coles Moultrie's second argument concerning Section 8 of the ESA will not be discussed. CIPS filed its Complaint solely under Section 5 of the ESA and did not present evidence concerning Section 8.

Coles Moultrie's third argument that CIPS is estopped is based on Complainant's "Section 4" map for the area in question. The testimony is uncontradicted that CIPS' Section 4 map is in error. CIPS' "Section 4" map does show the J.A. Strong residence as being in Section 22 rather than Section 21. Coles Moultrie argues that based upon its review of the Section 4 map it

determined that CIPS was serving no customers in this tract of land and therefore proceeded to construct new service lines for the Alderson residences. Coles Moultrie made an investment of \$3,138 for this construction. Coles Moultrie argues that by delivering "Section 4" maps to the Commission and Coles Moultrie that CIPS has vouched for the maps' accuracy and that others could rely upon the information contained therein. Coles Moultrie did in fact rely upon said map and without any knowledge of any error constructed facilities to serve electric customers on the Alderson tract.

CIPS in its reply brief argues that estoppel is an affirmative defense and that Coles Moultrie never asserted such affirmative defense. Further, CIPS contends that Coles Moultrie inappropriately relied on the map by testimony of Coles Moultrie's witnesses. CIPS argues that Coles Moultrie was familiar with the area and knew of the location of the J.A. Strong house and of the CIPS electric service lines. CIPS argues that Section 7 of the Electric Supplier Act provides a mechanism for avoiding this type of circumstance through the sending of notice of intent to serve a customer. CIPS states that if Coles Moultrie had served CIPS with such a notice and Coles Moultrie would not have been out the construction money for the new service lines. CIPS argues that Coles Moultrie unreasonably relied on the Section 4 map and went to considerable expense with the knowledge that electric customers were being served by CIPS.

Conclusion

CIPS has the exclusive right to provide electric service to the Alderson tract located within the area of the 92.5 acre tract owned on July 2, 1965 by J.A. Strong and Nelta Strong. CIPS introduced credible evidence that it commenced electric service for J.A. Strong in 1948 and that same service was continual to July 2, 1965. CIPS also introduced credible evidence that the Alderson residences are a parcel of the original 92.5 acre tract.

Section 5 of the ESA states: "Each electric supplier is entitled to a) furnish service to customers at locations which it is serving on the effective date of this Act," 1983 Revised Statute, Chapter 111-2/3, Paragraph 405.

The Commission is of the opinion that CIPS is not estopped from asserting its right to serve the Alderson tract based upon its erroneous Section 4 map filed with the Commission.

Coles Moultrie was aware of the location of CIPS Mattoon-Lerna line. Coles Moultrie was also aware of a school house and a farm house in close proximity to the CIPS Mattoon-Lerna line. Coles Moultrie also did not send notice under Section 7 of the ESA to CIPS inquiring whether there were existing customers. Based upon the above, it appears that CIPS is not estopped from asserting its right to serve location in question.

While Section 4 of the ESA requires maps to be filed with the Commission and if no objections are filed such maps may be found accurate by the Commission. Section 5 also states that such maps are prima facia evidence of the location of electric supplier lines as of July 2, 1965. Section 5 does not state that Section 4 maps are prima facia evidence of customers being served on that date. In this matter CIPS Section 4 map clearly indicates the location of the Mattoon-Lerna line and that Coles Moultrie should have inquired further as to current customers of CIPS.

The Commission, having considered all of the evidence contained in the record in this proceeding and being fully advised in the premises, is of the opinion and finds that:

- (1) Central Illinois Public Service Company is an Illinois corporation engaged in the generation, transmission, distribution and sale of electric energy in the State of Illinois, and is a public utility within the meaning of "An Act concerning public utilities," as amended and now enforced, and is an electric supplier as defined by Section 3.5 of the Electric Supplier Act;
- (2) Coles Moultrie Electric Cooperative, an Illinois not-for-profit corporation, is an electric cooperative as defined by Section 3.4 of the Electric Supplier Act and is an electric supplier as defined by Section 3.5 of said Act;
- (3) the Commission has jurisdiction over the parties hereto and of the subject matter hereof;
- (4) the recitals of fact and conclusions reached in the prefatory portion of this order are supported by the evidence and are hereby adopted as findings of fact;
- (5) Central Illinois Public Service Company has the right to provide electric service to the location in question;

- (6) Coles-Moultrie Electric Cooperative should be directed to cease providing electric service presently being furnished to the location in question, at such time as Central Illinois Public Service Company is reasonably able to install facilities to provide service;
- (7) all objections, petitions and motions made and/or filed in this proceeding which remain undisposed of consistent with the ultimate conclusions contained in this order.

IT IS THEREFORE ORDERED that Central Illinois Public Service Company is entitled to provide electric service, at the location in question.

IT IS FURTHER ORDERED that Coles-Moultrie Electric Cooperative discontinue furnishing electric service to the location in question at such time as Central Illinois Public Service Company is ready and able to provide service and remove all lines and facilities which have been extended to serve said location.

IT IS FURTHER ORDERED that all objections, motions and petitions made and/or filed in this proceeding which remain undisposed of be, and they are hereby, disposed of consistent with the ultimate conclusions in this order.

By order of the Commission this 5th day of February, 1986.

(SIGNED) MARY B. BUSHNELL

(S E A L)

Chairman

6

May 28, 2002

Rural Electric Convenience Cooperative, Co.
and
Soyland Power Cooperative, Inc.
-vs-
Central Illinois Public Service Company
(AmerenCIPS)

Complaint pursuant to the Illinois Electric
Supplier Act 220 ILCS 30/1 et. seq.

01-0675

SERVED ELECTRONICALLY

NOTICE OF ADMINISTRATIVE LAW JUDGE'S RULING

TO ALL PARTIES OF INTEREST:

Notice is hereby given that the Administrative Law Judge, having reviewed the pleadings relating to the Motion to Dismiss Count VII through and including Count XI of the Complaint in the above captioned matter, hereby grants said Motion to Dismiss, strikes Count VII through and including Count XI of the Complaint and dismisses putative co-complainant Soyland Power Cooperative as a party to this matter.

Notice is also given that in reaching this conclusion, the Administrative Law Judge has determined that Soyland is without standing to prosecute this claim under the Electric Supplier Act. The complaint here asks that the Commission determine the party entitled to serve a customer. Soyland has not alleged any facts that would allow the Commission to enter an order granting it the right to serve that customer and, based upon the pleadings, is not possessed of any material facts not in the possession of complainant Rural Electric Convenience Cooperative that will assist the Commission in reaching a decision on the merits.

Accordingly, Soyland has asserted no matters that would allow the Commission to find that it should be allowed to participate in this matter. While Soyland has asserted that it has an economic interest in the outcome of this docket, that assertion (which is accepted as true for the purposes of this ruling) is insufficient to confer standing.

Sincerely,

Donna M. Caton
Chief Clerk

cfr
Administrative Law Judge Woods

cc: Mr. Rockrohr - Engineering

June 26, 2002

Rural Electric Convenience Cooperative, Co. :
and :
Soyland Power Cooperative, Inc. :
-vs- :
Central Illinois Public Service Company :
(Ameren CIPS) :
Complaint pursuant to the Illinois Electric :
Supplier Act 220 ILCS 30/1 et. seq. :

01-0675

SERVE ELECTRONICALLY

NOTICE OF ADMINISTRATIVE LAW JUDGE'S RULING

TO ALL PARTIES OF INTEREST:

Notice is hereby given that the Administrative Law Judge, being in receipt of various pleadings rules as follows:

The Order Staying Discovery is dissolved and discovery shall proceed;

The Petition to Intervene of Soyland Power Cooperative is denied.

Sincerely,

Donna M. Caton
Chief Clerk

cp
Administrative Law Judge Woods

cc: Mr. Rockrohr-Engineering



ILLINOIS COMMERCE COMMISSION

July 12, 2002

Rural Electric Convenience Cooperative, Co. :

and :

Soyland Power Cooperative, Inc. :

-vs- :

Central Illinois Public Service Company
(AmerenCIPS) :

01-0675

Complaint pursuant to the Illinois Electric
Supplier Act 220 ILCS 30/1 et. seq. :

CERTIFICATE OF COMMISSION ACTION

TO ALL PARTIES OF INTEREST:

This is to certify that the Commission in conference on July 10, 2002, [REDACTED] the Petition for Interlocutory Review of Administrative Law Judge's Ruling, filed by Soyland Power Cooperative, Inc., and Rural Electric Convenience Cooperative Co. filed on June 18, 2002.

Related memorandums will be available on our web site (eweb.icc.state.il.us/e-docket) in the docket number referenced above.

Donna M. Calton
Chief Clerk

cp
Administrative Law Judge Woods

cc: Mr. Rockrohr - Engineering

**REPORT TO THE COMMISSION
PURSUANT TO SECTION 200.520 OF THE RULES OF PRACTICE
OF THE ILLINOIS COMMERCE COMMISSION**

Docket No.: 01-0675
Bench Date: 08-07-02
Deadline: N/A

REPORT _____

TO: The Commission

FROM: Donald L. Woods, Administrative Law Judge

DATE: July 24, 2002

SUBJECT: Rural Electric Convenience Cooperative, Co. and Soyland
Power Cooperative, Inc.
-vs-
Central Illinois Public Service Company (AmerenCIPS)

Complaint pursuant to the Illinois Electric Supplier Act 220
ILCS 30/1 et. seq.

RECOMMENDATION: Deny the petition for interlocutory review.

This case is a complaint under the Electric Supplier Act ("ESA") and involves a new mine portal of a mine to which AmerenCIPS has previously been granted service rights by the Commission. The Complaint was filed jointly by the Rural Electric Convenience Cooperative ("RECC") and Soyland Power Cooperative, Inc. ("Soyland"). RECC and Soyland have entered into an all requirements contract calling for Soyland to provide power to RECC. The joint complaint asserted the existence of this contract and requested an order granting various forms of relief to both RECC and Soyland. The relief sought was essentially the same in each case.

AmerenCIPS filed a pleading that, *inter alia*, sought the dismissal of the counts alleged by Soyland and the dismissal of Soyland as a co-complainant. The pleading asserted that standing under the ESA is limited to parties to whom the Commission could grant service rights and that, because Soyland has not alleged that it intends to serve the customer, it lacked standing to join the claim. On May 28, 2002, I agreed with AmerenCIPS and struck the counts of the complaint relating to Soyland and struck Soyland as a party. Soyland filed a Petition for interlocutory review of that ruling. The Commission denied the Petition on July 10, 2002.

Following the May 28th ruling striking Soyland as a party complainant, Soyland filed a Petition for Leave to Intervene. That Petition was denied on June 26, 2002. On July 16, 2002, Soyland filed a Petition for interlocutory review of that decision. Both the Petition to Intervene and the Petition for interlocutory review raise the all requirements contract as the basis for Soyland's interest in this matter. Soyland makes a number of factual assertions in support of its interest to wit: (1) Soyland has an interest in knowing the load that it will be required to provide RECC because it based its rates upon projected loads; (2) Soyland is required to build transmission facilities to carry any and all load required by RECC; and (3) Soyland is required by the contract to assist RECC in planning, load forecasting and other engineering requirements for RECC to serve the load at issue.

CIPS opposed intervention arguing that Soyland had not shown that its participation would be anything but cumulative to RECC's and that its participation would likely impose additional, unnecessary burdens upon CIPS and the Commission's resources by adding a party that was not in possession of any material evidence not in the possession of RECC.

I agree with CIPS that Soyland is in possession of no relevant evidence not in the possession of RECC and that its participation will only complicate this otherwise rather straightforward case. The cumulative pleadings that Soyland has filed so far in this docket seem to prove the point. I would recommend that the Petition for Interlocutory review be denied.

DLW/lw



ILLINOIS COMMERCE COMMISSION

August 8, 2002

Rural Electric Convenience Cooperative, Co. :

and :

Soyland Power Cooperative, Inc. :

-vs- :

Central Illinois Public Service Company
(AmerenCIPS) :

01-0675

Complaint pursuant to the Illinois Electric
Supplier Act 220 ILCS 30/1 et. seq. :

CERTIFICATE OF COMMISSION ACTION

TO ALL PARTIES OF INTEREST:

This is to certify that the Commission in conference on August 7, 2002, [REDACTED] the Petition for Interlocutory Review of Administrative Law Judge's Ruling filed on July 16, 2002 on behalf of Soyland Power Cooperative.

Related memorandums will be available on our web site (eweb.icc.state.il.us/e-docket) in the docket number referenced above.

Donna M. Cator

Chief Clerk

cp

Administrative Law Judge Woods

cc: Mr. Rockrohr - Engineering



ILLINOIS COMMERCE COMMISSION

September 5, 2002

Rural Electric Convenience Cooperative, Co. :

and :

Soyland Power Cooperative, Inc. :

-vs- :

Central Illinois Public Service Company
(AmerenCIPS) :

01-0675

Complaint pursuant to the Illinois Electric
Supplier Act 220 ILCS 30/1 et. seq. :

CERTIFICATE OF COMMISSION ACTION

TO ALL PARTIES OF INTEREST:

This is to certify that the Commission in conference on September 4, 2002, [REDACTED] the Petition for Reconsideration filed on August 26, 2002 on behalf of Soyland Power Cooperative, Inc.

Related memorandums will be available on our web site (eweb.icc.state.il.us/e-docket) in the docket number referenced above.

Donna M. Caton
Chief Clerk

cp
Administrative Law Judge Woods

cc: Mr. Rockrohr - Engineering